(1) 93-95

Court, U.S.
FILED
JUN 25 1993
OFFICE OF THE CLERK

No._____

IN THE SUPREME COURT OF THE UNITED STATES

LT/COLONEL CYRUS V. EDWARDS
Petitioner

UNITED STATES OF AMERICA
Respondent

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
DISTRICT OF COLOMBIA
WASHINGTON, D. C.

PETITION FOR WRIT OF CERTIORARI

For the Petitioner
Lt/Golonel Cyrus V. Edwards
Box 54415
Oklahoma City, Oklahoma 73154
405-427-7011

25 pp

QUESTIONS PRESENTED FOR REVIEW

1. Whether the petitioner, Lt/Colonel Cyrus V. Edwards was deprived of due process of law when the United States District Court of Appeals denied his Petition in Case No. 92-1344, and refused to hear it.

2. Whether the petitioner, Lt/Colonel Cyrus V. Edwards was deprived of due process of law when the United States District Court of Appeals denied his second Petition for a rehearing in Case No 92-1344.

3. Whether the United States District Court of Appeals, Washington, D. C., errored in so stating their reason for denial was, "The case had not gone through the FCC Commissioners".

4. Whether the United States District Court of Appeals errored, and denied Colonel Edwards due process of law, when the Court refused to give any consideration to the second Petition for rehearing, which pointed out to the Court that the case had gone through the FCC Commissioners.

5. Whether the United States District Court of Appeals errored in not upholding United District Court laws laid down for the FCC to follow in granting a new station. Therefore, condoning the FCC to violate those laws in the future at will. Those laws were pointed out to the United States District Court of Appeals in the Petition both times.

6. Whether the petitioner, Lt/Colonel Cyrus V Edwards, was deprived of due process of law by the FCC by the FCC Hearing Judge ignoring the District Court laws laid down for FCC to follow; the FCC Court of Review ignored those laws; the FCC Commissioners ignored those laws; and the United States District Court of Appeals refused to uphold those laws, after Colonel Edwards pointed out those laws to all of them.

7. Whether the petitioner, Lt/Colonel Cyrus V. Edwards, was deprived of due process of law, when he was outright discriminated against in the FCC Hearing.

8. Whether the FCC is going to be permitted to violate the United States District Court laws, laid down for the FCC to follow in granting a new station, and in violating those laws to grant stations not in the best interest of the Public, as they propose to do in the Shawnee, Oklahoma FM Broadcast case.

PARTIES TO THE PROCEEDING

(A) United States District Court of Appeals, District of Columbia, Washington, D. C.

(B) Federal Communication Commission, Washington, D.C.

(C) Lt/Colonel Cyrus V. Edwards, Oklahoma City, OK
FCC Application No. BPH-851024MB.

(D) Bott Communications, of Missouri, FCC Application
No. BPH-851028MG

The case is regarding Applications for an FM Broadcast station construction permit for Shawnee, Oklahoma.

TABLE OF CONTENTS

	Page
Questions presented for review	i
Parties to the proceeding	iii
Table of contents	iv
Grounds for U. S. Supreme Court Jurisdiction	1
History of Case	6
Law that the FCC is suppose to follow	9
Pleading to the U. S. Supreme Court	11
Appendix	13

STATEMENT OF GROUNDS ON WHICH THE JURISDICTION OF U. S. SUPREME COURT IS INVOKED

1. In the case No. 92-1344, before the United States District Court of Appeals, District of Columbia Circuit, the Petition by Lt/Colonel Cyrus V. Edwards was denied. Date stamped on the Order is March 11, 1993.

2. On March 23, 1993, Colonel Edwards filed another Petition requesting a rehearing on the case. And, that Petition was denied by the District Court of Appeals, with date stamped thereon as 13 April 1993.

3. The United States District Court's denial on the two above Petitions totally ignores laws laid down by, and contrary to those laws by another United States District Court, Circuit of New York.

4. This case has strong national interest of the American Public. Laws are laid down for the FCC in granting a new radio station, and those laws are not being followed by the FCC at all Public interest is being ignored, and the FCC is granting station as they wish, regardless of the laws.

5. Since the FCC proposes to grant the Shawnee, Oklahoma FM station to Bott Communications of Missouri, over the superior Application by Colonel Edwards, FCC File No. BPH-851024MB, this comparison will prove above statements:

COMPARISON OF APPLICATIONS

NOMENCLATURE	EDWARDS	BOTT COMMUNICATIONS
Proposed tower height	2,000 ft.	1,408 ft.
Tower approved by FAA?	Yes	No
Tower site contracted for?	Yes	No
Proposed radiated power	100 KW	100 KW
Does the 3.16 Millivolt signal encompass Shawnee, Okla.?	Yes	No
Population in 3.16 MV/M?	274,020.69	Not shown
Homes in 3.16 MV/M?	112,915.16	Not shown
3.16 MV/M Area, Square miles	5,419.74	Not shown
Population in 1.0 MV/M Signal	1,149,838.00	275,000
Homes in 1.0 MV/M Signal	472,882.00	Not shown
1.0 MV/M Area, Square Miles	10,275.32	8,510.00
Population in 50 Microvolt Sig.	3,037,475.00	Not shown
Homes in 50 Microvolt Signal	1, 243, 488 . 20	Not shown
50 Microvolt Area, Square Miles	37,416.87	Not shown
Was Community Survey made?	Yes	No
Does Applicant live within the 1.0 MV/M Signal?	Believes so	No
Does Applicant have business interest in Shawnee, Okla.?	Yes	No

NOMENCLATURE	EDWARDS	BOTT COMMUNICATIONS
Does Applicant have other Broadcast station interest?	No	Yes, many stations and applications Pending with FCC
Has Applicant ever disposed of a FCC Construction Permit?	No	Yes
Are tower spacing requirements met?	Yes	Yes, at original site only
What was FCC closing date on the Shawnee, Okla. case?	15 July 1987	—
Has any Applicant filed any Amendments after that date?	No	Yes, two Engineering Amendments
Has any Applicant proposed a tower site change since closing date on Shawnee, Okla. case?	No	Yes
If so, does new site meet FCC spacing requirements?	No move	No, short spaced towards KWEN of Tulsa, Oklahoma
Length time Applicant has been on Shawnee project?	13 years	6 years
Does Applicant propose to serve full time with the station?	Yes	No
Did Applicant sign and file an Integration Statement with FCC?	Yes	No
Did Applicant propose Auxiliary Power?	Yes	Yes
Did Applicant make Documentation of Population, Homes, and Land Area coverages?	Yes	No

NOMENCLATURE	EDWARDS	BOTT COMMUNICATIONS
Did Applicant conduct an Ascertainment Survey of the Community problems?	Yes	No
Did Applicant prove his funding as required of FCC by U.S. District Court?	Yes	No
Did Judge Miller require proof by Applicant?	Yes	No
Did Applicant have to prove transmitter site Judge Miller?	Yes	No
Did Applicant have to prove FAA tower permit to Judge Miller?	Yes	No
Regarding Population coverage, what is the ratio of Applicants coverage?	4.0	to 1.0
Does Applicant own any other Broadcast station interest?	No	Yes, owns several stations
Does Applicant have any other FCC Applications pending?	No	Yes
In Judge Miller's ruling on 10 December 1991, who did he propose to grant station to?	No	Yes
Did Judge Miller's ruling meet requirements of the U. S. District Court rulings?	(No)	

NOMENCLATURE	EDWARDS	BOTT COMMUNICATION
Is Judge Miller's ruling being Appealed with the FCC Review Court?	Yes, by Edwards	
Did Judge Miller rule towards "Maximum Service to the Public"?	(No)	
Did Judge Miller rule on "Comparative basis" of the Applicants?	(No)	
What did Judge Miller base his ruling on?	(Issues)	
Issues against who?	(Edwards)	
Did Bott Communication have any Issues against them?	(No)	
Were any issues against Bott Communication Petitioned for by Edwards legal counsel?	(Yes)	
How did Judge Miller rule on it?	(Denied it)	
Did Judge Miller ever state during the hearings that based on a Comparative basis Edwards stood to be the winner	(Yes)	
And, did Judge Miller rule in that manner?	(No)	

STATEMENT AND HISTORY OF CASE

Thirteen years (13) ago, I, Colonel Cyrus V Edwards started on the project of getting an FM Broadcasting station for the City of Shawnee, Oklahoma. The community has never had an FM station assigned to it. Colonel Edwards filed for an FM station of 100,000 watts of power, and a tower of 2,000 feet high. This put a strong signal into Shawnee, and over a huge area of Eastern Oklahoma, and covering a population of 3,047,450.00 people, in the primary and secondary coverage areas.

Four applicants filed on top of Colonel Edwards application in an attempt to get the channel that Colonel Edwards had filed for as the first filer.

Over a period of years, the FCC eliminated three of those. One of those eliminated was done so, because his Engineering showed a tiny 1/8" square to represent Shawnee on an Engineering drawing. Yet, retained Bott Communications of Missouri whose Engineering showed Shawnee represented by a tiny 1/8" circle. The Bott Communication's application should have been dismissed along with the rest, due to that reason.

However, the FCC retained the Bott Application, which proposed only a 1,400 foot tower, 100,000 watts of power, and a population coverage of 275,000 people, as compared to Colonel Edwards application covering over 3.0 million people.

Apparently the FCC desired a hearing, and had to retain one application to set up a hearing, against Colonel Edwards far superior application. Each applicant had to pay the FCC a hearing fee, which I believe was $7,640.00.

Colonel Edward's application was an excellent one, meeting all FCC requirements perfectly, and many years had been spent on it. It took three years to get FAA to approve the tower and grant a permit for it; almost two years locating tower sites, and contracting for such. Colonel Edwards, being a Professional Radio Engineer had the Engineering; had funding (took two years to locate funding); tower

site of 360 acres under contract; a tower permit from the FAA for the 2,000 ft. tower; and met all legal requirements.

Bott Communications of Missouri was thrown against Edwards, in the FCC Hearing. Bott Communications of Missouri did not have a tower site; did not have an FAA tower permit; and was never asked one thing regarding their funding.

FCC HEARING

Colonel Edwards was shocked, stunned, and couldn't believe what transpired in the hearing which took almost two years. Although Colonel Edwards application was so far superior, and perfect in every manner, the FCC Hearing Judge entered the Court room and did immediately show bias, by making this statement to the Court, "Colonel Edward's Application is a sham." And, everything from then on, was total outright discrimination towards Colonel Edwards and his application, although it was so vastly superior. Colonel Edwards was forced to prove his funding; prove his tower site; prove his tower permit; prove his Engineering ability.

Whereas, Bott Communications of Missouri was never asked in the Court if they had one single dime to build the station with. We proved in the Court that Bott didn't even have a tower site, and didn't even have a tower permit from FAA. Colonel Edwards asked the Court to place a tower site issue against Botts, but the Court refused and denied the Petition.

Colonel Edwards lost his legal counsel in middle of the hearing, and requested a three day extension for making a filing, which was promptly denied. Each and all requests by Colonel Edwards was denied by the Court.

It was positively the highest of bias and discrimination that one could ever experience in a Court room.

The FCC Hearing Judge came out with his decision and proposed grant the station to Bott Communications of Missouri.

THE FCC REVIEW COURT

Colonel Edwards appealed the case to the FCC Review Court. The FCC Review Court upheld the Judge's decision, and so stated their reason was, "Edward's Petition was eleven pages to long." That was the FCC Review Courts ruling on the case.

THE FCC COMMISSIONERS

The case was then appealed to the FCC Commissioners by filing a Petition with them. The Commissioners sit on the case approximately six or seven months, then one day just picked a phone to the FCC Review Court, and asked the Review Court to make a second ruling on the case and grant it to Botts Co.

District Court of Appeals totally ignored those laws, and refused to uphold them. And, by not upholding those laws the best interest of the public has been disregarded, as well as, it gives the FCC complete lee-way in violating those laws in the future.

U. S. DISTRICT COURT LAWS, FCC IS SUPPOSE TO FOLLOW IN GRANTING A NEW STATION

Reference is made to the UNITED STATES DISTRICT COURT CASE OF NATIONAL BROADCASTING vs UNITED STATES, 47 F. Supp. 940 - 943.

In the above case, the United States District Court held the Federal Communication Commission, in discharge of it's duty, to comply with the following:

(A) Promote the "Public convenience, interest, or necessity"

(B) Must distribute available frequencies so as to give the greatest possible public service.

(C) See that all applicants have the necessary technical ability to build and broadcast programs.

(D) See that stations are properly constructed and properly manned.

(E) See that proposed station does not interfere with other stations.

(F) And, that all licenses are responsible, morally, and financially.

The United States Supreme Court has upheld the above laws at least three times, on the above standards when applied to the construction of stations or to the allocation of frequencies.

(A) Federal Radio Commission vs Nelson Brothers Bond and Mortgage Company, 289 U.S. 266, 2859, 53, S. Ct. 627, 77 L.Ed. 1166, 89 A.L.R. 406.

(B) Federal Communication Commission vs Pottsville Broadcasting Company, 309 U. S. 134, 137, 138, 60 S. Ct . 437, 84 L . Ed . 656 ; (semble)

(C) Panama Refining Company vs Ryan, 293 UO S. 388, 428, 55 S. Ct. 241, 79 L. Ed. 446.

Therefore, the FCC did not comply with the United States District Court laws, as laid down for the FCC to follow.

And, in proposing to grant the Shawnee, Oklahoma FM station to a much lesser applicant (Bott Communications of Missouri) in their:

FCC Memorandum, Opinion and Order Adopted on 13 July 1992, and Released on 22 July 1992, by the FCC Review Court, which so ordered that Colonel Edwards superior application be dismissed, and the lesser application of Bott Communication, Inc. of Missouri be granted.

In doing so, the FCC has done this:

(A) Totally disregarded and violated the U S. District Court laws laid down for them to follow

(B) FCC has shown that they are not granting stations in "Best Interest of the Public".

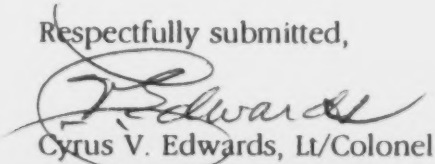
(C) The FCC has plainly ignored everything it has ever stood for in the past, such as local ownership; Diversity of Media; minority ownership; granting stations in Public interest.

PLEADING

For all the foregoing reasons, Colonel Cyrus V. Edwards pleads for the United States Supreme Court to do the following:

(1) Accept this Petition for filing.
(2) Since this Petition is in great public interest, give it great consideration.
(3) Assume full jurisdiction over the case, since all FCC branches of legal departments, as well as, the United States District Court of Appeals have had the case in front of them, and all made no attempt to uphold the U. S. District Court laws regarding granting a new station.
(4) Order the FCC to comply with the District Court laws; order the FCC Memorandum, Opinion, and Order Adopted on 13 July 1992, and Released on 22 July 1992 by the FCC Review Court reversed, and grant the station to Colonel Cyrus V. Edwards, FCC File No. 851024MB.
(5) And, for the FCC to grant the Shawnee, Oklahoma FM station permit in Public interest, convenience, and necessity.

Respectfully submitted,



Cyrus V. Edwards, Lt/Colonel
Broadcast Consulting Radio
Engineer and Investments
FCC/NARTE/SBE Registered

Dated: 18 June 1993.